

This problem is further evidence that the N11 resource is not well suited to national uses. As a national resource, there are far too few N11 numbers to meet the need, even assuming that service could be made available nationwide. On the other hand, experience shows that, as a limited-area resource, with calling areas tailored to the needs of locally-oriented information services providers, N11 is sufficient to meet typical demand.

V. ARGUMENTS AGAINST THE USE OF N11 NUMBERS TO PROVIDE LOCALLY-ORIENTED INFORMATION SERVICES HAVE BEEN PROVEN INCORRECT.

Some commenters, notably local exchange carriers ("LECs"), have argued that N11 service is undesirable, in an apparent attempt to keep their current monopolies on N11 numbers. These arguments have been refuted by experience. As the Media Parties showed in their comments, the success of N11 service in Florida and Georgia demonstrates that the use of N11 service to provide locally-oriented information services is a tested concept that works.^{34/} Despite the extensive empirical evidence of the undisputed success of N11 service, opponents continue to hypothesize unlikely harms. The Commission should look at the facts of N11 service's success and ignore the fancies of the LECs.

33/ (...continued)

should be rejected. The North American Numbering Plan Administrator has no jurisdiction to make discretionary decisions, and therefore cannot be placed in charge of N11 number assignment at the national level.

34/ Comments of the Media Parties at 10-12, Appendix B.

A. Availability of N11 Numbers Has Not Been a Substantial Problem in the States Where N11 Service Is Available.

The first argument against N11 service is that numbers are too scarce. This never has prevented LECs from appropriating N11 numbers for their own purposes. More important, the relative scarcity of N11 numbers should not be a bar to their purposes.^{35/} In light of the significant public interest benefits of N11 service, it would be a serious mistake to let these numbers lie fallow, as they have for decades.

At the local level, demand for N11 service has been strong but not overwhelming in the states where it is available. This results largely from the use of limited service areas in those states. When N11 numbers are assigned this way, the number of entities that can receive N11 numbers increases substantially, and the ability to satisfy demand increases significantly. In Florida, for example, multiple N11 numbers have been assigned in such cities as Fort Lauderdale, Miami and Orlando. As of this writing, demand does not exceed supply. Similar results have occurred in Georgia and Tennessee. In fact, many N11 numbers that could be assigned have not been claimed in communities across all three states. Consequently, experience shows that concerns about N11 number availability are currently unwarranted.

^{35/} LECs actually have increased the scarcity of N11 numbers during the pendency of this proceeding by activating them for their own use. For instance, Bell Atlantic now uses 611 for repair service in the Washington, D.C. area. Comment of the Media Parties at 33 n.36. In the first phase of this proceeding, one telephone company actually asserted that N11 service should not be permitted because it planned to use an N11 number for electronic yellow pages. See Comments of the Puerto Rico Telephone Company, filed June 5, 1992 at 2.

Moreover, Commission precedent confirms that scarcity is not a barrier to assignment of common carrier resources. For instance, when there was a significant shortage of satellite transponders, the Commission did not prevent assignment of those transponders, but took steps to encourage the development of additional transponder capacity.^{36/} The Commission should follow that policy in this case as well. Given the reluctance of most LECs to develop any form of abbreviated dialing, it is highly unlikely that the LECs will develop additional forms of abbreviated dialing unless forced to do so. If N11 service is made available to information services providers, the LECs will face more pressure (and therefore have a greater incentive) to develop alternative forms of abbreviated dialing when N11 numbers do begin to run out than they would have faced if N11 numbers were not made available for commercial uses. Allowing N11 assignment now will lead to new forms of abbreviated dialing in the future, thus creating opportunities for a wide variety of entities to benefit from abbreviated dialing.

B. No Workable Substitute for N11 Service Currently Exists.

Despite ample proof that N11 service is the only currently available service that meets the needs of locally-oriented information services providers, some parties continue to insist that numbering resources such as 800, 900, 976 and 555 numbers are

^{36/} See Domestic-Fixed Transponder Sales, *Memorandum Opinion, Order and Authorization*, 90 F.C.C.2d 1238, 1250-51 (1982) (describing efforts to alleviate satellite transponder shortage).

viable alternatives to N11 numbers.^{37/} However, as the Media Parties demonstrated in their comments, each of these proposed "alternatives" has serious flaws that make it unsuitable for access to low-cost, locally-oriented information services.

For example, 900 and 976 services are expensive. The high costs of these services make it impossible for information services providers to keep the cost of a call at the nominal levels that prevail where N11 service is available. Compared to localized N11 service, 800 service is also expensive. Federal law also prohibits the use of 800 numbers for pay-per-call services.^{38/} Other problems with these "alternatives" include the unsavory reputations of 900 and 976 numbers, and the broad geographic coverage of 900, 976 and 800 service. Further, tariff restrictions on 976 numbers, such as the advance notification required before a message can be changed, would prevent information services providers from offering the public exactly the type of timely, current information that the public is looking for. Nor can local information services providers use "555" service because it does not yet exist.^{39/} The proposed 555 service also is unsuitable because it appears to be

^{37/} Comments of GTE Service Corporation at 2.

^{38/} See Policies and Rules Implementing the Telephone Disclosure and Dispute Resolution Act, *Order on Reconsideration and Further Notice of Proposed Rulemaking*, FCC 94-200, rel. August 2, 1994.

^{39/} Further, the states already have been asked to reject requests by information services providers for use of 555 numbers by at least one party. See *Consultant Wants "555" Code Reserved for Directory Services*, TELECOMMUNICATIONS REPORTS, Sept. 12, 1994 at 28. (Reporting on letters sent by TELCO Planning, Inc. to state regulatory commissions asking that 555 numbers be reserved for directory assistance-like offerings.)

designed for large service areas and consequently is likely to have the higher costs associated with 900 and 976 service.

The Media Parties have discussed these and other alternatives extensively in previous filings with the Commission and, more important, have made extensive efforts over several years to find telephone services that meet their needs. Comments of the Media Parties at 34-35. The LECs know that there are no currently available alternatives to N11 service that meet the needs of locally-oriented information services providers, yet they never have proposed a substitute for N11 service that actually works.^{40/} The Commission should not force the public to wait indefinitely for access to information that they want and need until one of these "alternatives" finally works.

C. Customers Are Not Confused by N11 Service.

Claims that customers will be confused by the use of N11 service for access to localized information services also persist despite uncontradicted evidence to the contrary.^{41/} The reality is that complaints of customer confusion in states where N11 service has been allowed *simply do not exist*. After a cumulative total of 30 months'

^{40/} For example, Ameritech states in its comments that it is actively developing alternative abbreviated dialing options, such as NXX#. Comments of Ameritech at 4. It is significant to note, however, that in the comments Ameritech attached from June of 1992, Ameritech also claimed to be actively developing NXX#. In its July 1992 comments, Ameritech said that it might be able to offer NXX# service within "twelve to eighteen months." Comments of Ameritech, filed July 13, 1992 at 5. Similarly, Bell Atlantic continues to propose a "gateway" alternative, even though BOC-operated gateways uniformly fail. Comments of Bell Atlantic at 2; *see* Comments of the Media Parties at 42.

^{41/} *See* Comments of GTE Service Corporation at 3.

experience and more than 1.4 million calls in Atlanta and West Palm Beach, there have been no complaints and no evidence of customer confusion in either market.

The reason there is no confusion was explained in the comments of the Media Parties. Experience shows that consumers can tell one number from another, and that they understand that dialing a number in one area does not reach the same party in another area unless an area code is dialed.^{42/} These are principles the telephone industry has depended upon since the introduction of the North American Numbering Plan. There is no reason to believe they will change as a result of N11 service.

LEC claims that customers will be confused by variations in number assignments are particularly disingenuous. Current N11 number use, despite the portrait painted by the LECs, is far from uniform across the country. Even the most common N11 number (911) is only available to 72 percent of the population after 20 years of effort and promotion.^{43/} Moreover, LECs have made widely varying uses of N11 numbers for years,

^{42/} See Comments of the Media Parties at 20-21.

^{43/} The Media Parties do not address the comments of the parties in Louisiana regarding the use of N11 numbers by entities that compete with the emergency services provided by 911 calls. See Comments of Acadian Ambulance Service, Inc.; Comments of Caddo Parish Communications District Number One; Comments of St. Charles Parish Communications District; Comments of Claiborne Parish Communications District; and Comments of Jackson Parish Communications District. The Media Parties' comments and reply comments address the suitability of N11 service for access to locally-oriented information services, not the suitability of N11 service for access to services such as those provided by Acadian Ambulance Service, Inc. The Media Parties do reiterate, however, that to date there have been no reports of customer confusion between the N11 services provided by information services providers and local 911 emergency services in the states where N11 information services have been offered. The Media Parties also agree that to avoid even
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with no apparent concern about confusion. This fact was documented most recently by the Commission's own survey of uses of central office codes, which found significantly varying uses of N11 numbers across the country. No N11 number was in use for the same purpose in every area code, and several are used for as many as three different purposes.^{44/} Since it is apparent that these uses have not caused meaningful customer confusion, it is equally apparent that LEC claims that N11 service will cause confusion are baseless.

Thus, experience and common sense demonstrate that using N11 service for access to information services will not create customer confusion. The Commission should not be swayed by the imagined fears of parties that have something to gain by preventing the release of N11 numbers. Rather, the Commission should rely on the empirical evidence from Florida, Georgia and decades of LEC use of N11 numbers that shows that confusion does not occur, and should conclude that N11 service serves the public interest.

VI. CONCLUSION

N11 numbers are perfectly suited for use by information services providers to provide consumers with inexpensive, convenient access to information tailored to the

^{43/} (...continued)

the possibility of customer confusion, the Commission could require subscribers to N11 service to identify themselves in some way at the beginning of each call. See Comments of the Texas Advisory Commission on State Emergency Communications at 5. Identification provisions are included in Southern Bell's N11 tariffs, but LEC uses of N11 numbers do not always follow this principle. See Comments of the Media Parties at 23 n.28.

^{44/} See A. Belinfante, "Central Office Code Usage," Industry Analysis Division, Common Carrier Bureau, rel. July 22, 1993.

communities they serve. No other available numbering resource provides the functions and service that N11 can offer, making N11 service uniquely appropriate for use by information services providers.

The empirical evidence of a cumulative total of 30 months of service in two different states shows that N11 service meets the needs of consumers and information services providers alike. In the face of this experience opponents of N11 service merely repeat their old arguments, oblivious to the real world success of N11 service that refutes their claims.

While the unique features of N11 service make it the ideal numbering resource for services such as the ones the Media Parties propose, the technical limitations of N11 service make it unsuitable for nationwide assignment. N11 service is available only in certain parts of the country, and the time and expense required to make N11 service ubiquitous would be enormous. Consequently, any type of use that requires nationwide access and uniformity could not successfully use N11 service in the foreseeable future due to the gaps N11 service would leave in any nationwide offering. Given the current lack of nationwide availability, and because N11 service already is so uniquely positioned as a locally-based service, the Commission should not assign N11 numbers on a nationwide basis.

Commission action is needed so that consumers can benefit from access to the new information resources that N11 service can provide. N11 service can give the public access to a whole range of new and innovative information services that are easy and

inexpensive to use, and that can be made available using only technology that already exists — the telephones they use every day. The Commission need not wait for developments in new technology to make the information superhighway a reality for millions of Americans all across the country, because N11 service can begin to meet the need today. For all these reasons, the Media Parties urge the Commission to adopt rules requiring LECs to make N11 service available as originally proposed in the 1992 Notice of Proposed Rulemaking.

Respectfully submitted,

By: Werner K. Hartenberger
Werner K. Hartenberger
Peter C. Canfield
J.G. Harrington
Christina H. Burrow
Dow, Lohnes & Albertson
1255 23rd Street, N.W.
Washington, D.C. 20037
(202) 857-2500
Counsel for
COX ENTERPRISES, INC. and
GANNETT CO., INC.

By: Peter C. Gould
Peter C. Gould
Robert L. Dimino
Sabin, Bermant & Gould
350 Madison Avenue
Fifteenth Floor
New York, NY 10017-3798
(212) 692-4424
Counsel for
ADVANCE PUBLICATIONS, INC.

By: Cheryl A. Tritt
Cheryl A. Tritt
Morrison & Foerster
2000 Pennsylvania Ave., N.W.
Washington, D.C. 20006-1812
(202) 887-1510
Counsel for
THE HEARST CORPORATION

By: Henry D. Levine
Henry D. Levine
D.E. Boehling
Levine, Lagapa & Block
1200 Nineteenth St., N.W.
Suite 602
Washington, D.C. 20036
(202) 223-4980
Counsel for
THE WASHINGTON POST
COMPANY

September 23, 1994

CERTIFICATE OF SERVICE

I, Jeanette M. Corley, hereby certify that today on this 23rd day of September, 1994, I caused a copy of the REPLY COMMENTS to be served by first-class mail, postage prepaid and/or hand delivery (*) to the following:

The Honorable Reed E. Hundt*
Chairman
Federal Communications Commission
1919 M Street, N.W., Rm. 814
Washington, D.C. 20554
(STOP CODE 0101)

The Hon. James H. Quello*
Commissioner
Federal Communications Commission
1919 M Street, N.W., Rm. 802
Washington, D.C. 20554
(STOP CODE 0106)

The Hon. Andrew C. Barrett*
Commissioner
Federal Communications Commission
1919 M Street, N.W., Rm. 826
Washington, D.C. 20554
(STOP CODE 0103)

The Honorable Susan Ness*
Commissioner
Federal Communications Commission
1919 M Street, N.W., Rm. 832
Washington, D.C. 20554
(STOP CODE 0104)

The Hon. Rachelle B. Chong*
Commissioner
Federal Communications
Commission
1919 M Street, N.W., Rm. 844
Washington, D.C. 20554
(STOP CODE 0105)

Katheleen Levitz*
Chief
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W. Rm. 500
Washington, D.C. 20554
(STOP CODE 1600)

Peyton L. Wynns, Chief*
Industry Analysis Division
Common Carrier Bureau
Federal Communications
Commission
1250 23rd Street, N.W.
Room 100
Washington, D.C. 20037
(STOP CODE 1600F)

Albert H. Kramer
Robert F. Aldrich
David B. Jeppsen
Keck, Mahin & Cate
Attorneys for American Public
Communications Council
1201 New York Ave., N.W.
Penthouse Suite
Washington, D.C. 20005-3919

Frederick M. Joyce,
Steven J. Hamrick
Attorneys for Acadian Ambulance Service,
Inc.
Joyce & Jacobs
2300 M Street, N.W., Ste. 130
Washington, D.C. 20037

James S. Blaszak
Francis E. Fletcher, Jr.
Attorneys for Ad Hoc
Telecommunications Users
Committee
Gardner, Carton & Douglas
1301 K Street, N.W.
Suite 900, East Tower
Washington, D.C. 20005

John M. Goodman
Betsy L. Anderson
Attorneys for Bell Atlantic
1710 H Street, N.W.
Washington, D.C. 20006

Martha Carter
Caddo Parish Communications District
Number One
1144 Texas Avenue
Shreveport, LA 71101

John L. Ware, City Manager
City of Dallas
1500 Marilla Street
Dallas, TX 75201

Betram Robert Cottine
Executive Director
U.S. Consumer Product Safety
Commission
Washington, D.C. 20207

John T. Lenahan
Larry A. Peck
Frank M. Panek
Attorneys for Ameritech
2000 W. Ameritech Ctr. Dr.
Room 4H86
Hoffman Estates, IL 60196

M. Robert Sutherland
A. Kirven Gilbert III
BellSouth Telecommunications, Inc.
4300 Southern Bell Center
675 W. Peachtree Street
Atlanta, GA 30375

R. Jack Fishman
Editor - Publisher
Citizen Tribune
1609 W. 1st N. Street
Morristown, TN 37814

Glenda Bailey Greer
Administrator
Claiborne Parish Communications District
Office of the E911
Administrator
P.O. Box 87
Homer, LA 71040-9999

Wardell C. Townsend, Jr.
Assistant Secretary for
Administration
Office of Assistant Secretary
for Administration
Department of Agriculture
Washington, D.C. 20250

Neil J. Stillman, Ph.D.
Deputy Assistant Secretary for
Information Resources Management
Department of Health and Human
Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Stephen H. Kaplan
General Counsel
Department of Transportation
400 Seventh Street, S.W.
Washington, D.C. 20590

David A. Bittenbender, Chief
Telecommunications Branch
Environmental Protection Agency
MD-34
Research Triangle Park, NC 27711

Cynthia B. Miller
Associate General Counsel
Florida Public Service
Commission
101 East Gaines Street
Tallahassee, FL 32399-0850

Donald L. Howell, II
Deputy Attorney General
Idaho Public Utilities Commission
P.O. Box 83720
Boise, ID 83720-0074

William H. Smith, Jr., Chief
Bureau of Rate and Safety
Evaluation
Iowa Utilities Board
Lucas State Office Building
Des Moines, IA 50319

Roger M. Cooper
Deputy Assistant Attorney
General
Information Resources Management - DOJ
10th & Constitution Ave., NW
Room 1121-Main
Washington, D.C. 20530

D. Mark Catlett
Assistant Secretary for
Finance and Information
Resources Management
Department of Veterans Affairs
810 Vermont Avenue, N.W.
Washington, D.C. 20420

Federal Labor Relations
Authority
Legal Department
500 C Street, S.W.
Washington, D.C. 20424

David J. Gudino
Attorney for GTE Service Corporation
1850 M Street, N.W.
Suite 1200
Washington, D.C. 20036

Albert Shuldiner
Assistant General Counsel
Information Industry Association
555 New Jersey Avenue, N.W.
Suite 800
Washington, D.C. 20001

Roy I. Nomey, Chairman
Jackson Parish Communication
District
128 Allen Avenue
P.O. Box 610
Jonesboro, LA 71251-0610

Medford W. Magill,
Vice President
Relay Administration Board
132 Cloud Drive
Baton Rouge, LA 70806

Dana Mulvany
350 Budd Avenue, Apt. A-1
Campbell, CA 95008-4021

Paul Rodgers
Charles D. Gray
James Bradford Ramsay
National Association of
Regulatory Utility Commissioners
1102 ICC Building
P.O. Box 684
Washington, D.C. 20044

Karen Peltz Strauss
National Center for Law and Deafness
800 Florida Avenue, NE
Washington, D.c. 20002

John F. Sturm
Senior Vice President/Public Policy and
General Counsel
Newspaper Association of America
529 14th Street, N.W.
Suite 440
Washington, D.C. 20045-1402

Gregory F. Intoccia
Donald J. Elardo
Attorneys for MCI
Telecommunications Corporation
1801 Pennsylvania Ave., N.W.
Washington, D.C. 20006

Charles Force
Associate Administrator for
Space Communications
NASA Headquarters
ATTN: Code OS
300 E. Street, S.W.
Washington, D.C. 20546

Ray Penrod, President
NASTD
3560 Iron Works Pike
P.O. Box 11910
Lexington, KY 40578-1910

Tonda F. Rush, President & CEO -
Counsel of Record
Jeffrey R. Keeler, Manager
Government Relations Counsel
The National Newspaper Association
1525 Wilson Boulevard
Suite 550
Arlington, VA 22209-2423

Fran Lopes, Acting Director
for Administration
Office of Personnel Management
1900 E Street, N.W.
Washington, D.C. 20515

Richard K. Childress
Vice President for Management
Services
Overseas Private Investment
Corporation
1100 New York Avenue
Washington, D.C. 20527-0001

Robert M. Lynch
J. Paul Walters, Jr.
Attorneys for Southwestern
Bell Telephone Company
One Bell Center, Room 3520
St. Louis, MO 63101

Major Sam M. Zinna
Administrative Assistant
St. Charles Parish
Communications District
P.O. Box 426
Hahnville, LA 70057

Norman A. Zigrossi
Chief Administrative Officer
Tennessee Valley Authority
400 West Summit Hill Drive,
ET 12P
Knoxville, TN 37902-1499

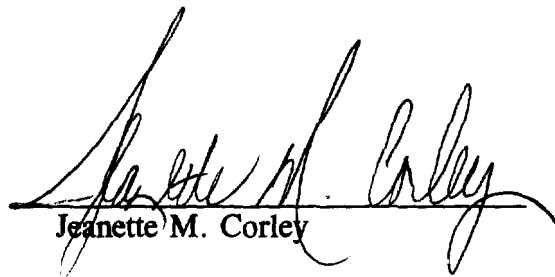
Darryl Wagley
Executive Director
St. Landry Parish Communications District
P.O. Box 111
Opelousas, LA 70571-0111

James D. Ellis
Paula J. Fulks
Attorneys for Southwestern Bell
Corporation
175 E. Houston, Rm. 1218
San Antonio, TX 78205

Leonard M. Kestenbaum
Jay Keithley
Phyllis A. Whitten
Sprint Communications
Company, L.P.
1850 M Street, N.W.,
11th Floor
Washington, D.C. 20036

Paul Stein, Co-President
SHHH-San Jose
3323 Duke Court
Santa Clara, CA 95051

Mary A. Boyd
Executive Director
Texas Advisory Commission on
State Emergency Communications
333 Guadalupe, Suite 2-212
Austin, TX 78701



Jeanette M. Corley

* Hand Delivered